

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NEW YORK**

THE RESEARCH FOUNDATION FOR THE  
STATE UNIVERSITY OF NEW YORK,

*Plaintiff/Counterclaim-Defendant,*

v.

TELLURIC LABS, LLC.

*Defendant/Counterclaim-Plaintiff.*

v.

STATE UNIVERSITY OF NEW  
YORK AT STONY BROOK,  
PETER I. BERNSTEIN,  
MICHAEL FERDMAN, PETER  
MILDER, FARID SAMANDI,  
TIANCHU JI, SHENG SUN CHO

*Third-Party Defendant(s)*

CIV. ACTION NO. 2:21-cv-01898-JS-SIL

**NOTICE OF MOTION**

Plaintiff/Counterclaim-Defendant, The Research Foundation For The State University of New York (“Research Foundation”) and Third-Party Defendants Dr. Michael Ferdman, Dr. Peter Milder, Mr. Farid Samandi, Mr. Tianchu Ji and Mr. Shengsun Cho (“TPD”) by and through the undersigned counsel, hereby moves this Court to dismiss the First Amended Third Party Complaint dated July 9, 2021 pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure for failure to state a claim upon which relief can be granted and/or in the alternative pursuant to Rule 41 of the

Federal Rules of Civil Procedure for failure to prosecute and such other relief as this Court may deem just, proper and equitable. Opposing Affidavits and answering Memoranda are due to be served March 17, 2023.

Dated: February 17, 2023  
Garden City, New York

SCULLY, SCOTT, MURPHY & PRESSER, P.C.

/s/ Peter I. Bernstein  
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The Research Foundation for The State University  
Of New York and Third-Party Defendants  
Dr. Michael Ferdman, Dr. Peter Milder,  
Mr. Farid Samandi, Mr. Tianchu, Ji  
and Mr. Shengsun Cho*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this the 17th day of February 2023, the foregoing **NOTICE OF MOTION** with **MEMORANDUM OF LAW IN SUPPORT OF MOTION TO DISMISS** were served via electronic mail and first-class mail, upon the following:

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I HEREBY CERTIFY that on this the 17th day of February 2023, the foregoing **NOTICE OF MOTION** with **MEMORANDUM OF LAW IN SUPPORT OF MOTION TO DISMISS** were served via ECF, upon the following:

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